

Exhibit 3



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/009,882	02/25/2011	7,835,757	Rex-7835757	6831

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 12/09/2011

Please find below and/or attached an Office communication concerning this application or proceeding.



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EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/009,882.

PATENT NO. 7,835,757.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

**Notice of Intent to Issue
Ex Parte Reexamination Certificate**

Control No.

90/009,882

Patent Under Reexamination

7,835,757

Examiner

OVIDIO ESCALANTE

Art Unit

3992

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. *Cf.* 37 CFR 1.313(a). A Certificate will be issued in view of
- (a) ☒ Patent owner's communication(s) filed: 01 November 2011.
- (b) ☐ Patent owner's late response filed: _____.
- (c) ☐ Patent owner's failure to file an appropriate response to the Office action mailed: _____.
- (d) ☐ Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
- (e) ☐ Other: _____.
- Status of *Ex Parte* Reexamination:
- (f) Change in the Specification: ☐ Yes ☒ No
- (g) Change in the Drawing(s): ☐ Yes ☒ No
- (h) Status of the Claim(s):
- (1) Patent claim(s) confirmed: 1.
- (2) Patent claim(s) amended (including dependent on amended claim(s)): 2-20
- (3) Patent claim(s) canceled: _____.
- (4) Newly presented claim(s) patentable: 21-69.
- (5) Newly presented canceled claims: _____.
- (6) Patent claim(s) ☐ previously ☐ currently disclaimed: _____.
- (7) Patent claim(s) not subject to reexamination: _____.
2. ☒ Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
3. ☐ Note attached NOTICE OF REFERENCES CITED (PTO-892).
4. ☒ Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).
5. ☐ The drawing correction request filed on _____ is: ☐ approved ☐ disapproved.
6. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the certified copies have
- ☐ been received.
- ☐ not been received.
- ☐ been filed in Application No. _____.
- ☐ been filed in reexamination Control No. _____.
- ☐ been received by the International Bureau in PCT Application No. _____.
- * Certified copies not received: _____.
7. ☒ Note attached Examiner's Amendment.
8. ☐ Note attached Interview Summary (PTO-474).
9. ☐ Other: _____.

cc: Requester (if third party requester)

U.S. Patent and Trademark Office

PTOL-469 (Rev. 05-10)

Notice of Intent to Issue Ex Parte Reexamination Certificate

Part of Paper No 20111116

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NOTICE OF INTENT TO ISSUE REEXAMINATION CERTIFICATE

1. This action is in response to the patent owner's after final response filed on November 1, 2011.

Status of the Claims

2. Original claim 1 is confirmed.
Original claims 2-20 are patentable.
New claims 21-69 are allowed.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. The changes made by this examiner's amendment will be reflected in the reexamination certificate to issue in due course.

The examiner contacted Mr. Kappes on November 17, 2011 to discuss an issue with respect to claims 6 and 11. As set forth in the patent owner November 1, 2011 response "[o]riginal (and confirmed) claims 6, 11, 18, 19 and 20 have been rewritten in independent format based on the language of original claims 2 and 9." the examiner notes that claims 6 and 11 inadvertently left out limitations of an intervening claim. Thus, the below examiner's amendment corrects this oversight. In addition, Mr. Kappes noted that new claim 46 should refer back to claim 45 as opposed to claim 35 and new claim 69 should refer back to claim 68 as opposed to claim 58. The examiner agreed to this change.

Replace claim 6 with the following:

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6. [The method of claim 5] A method that communicates content from a content provider utilizing a content notification system, through a mobile radiotelephone network to a wireless communication device, the content notification system: (i) including an interface to a home location registry, (ii) configured to process data into a paging call suitable for transmission to the wireless communication device, and (iii) configured to transmit the paging call to the wireless communication device; the method comprising:

(a) the content provider causing content available for delivery to a wireless communication device to be stored at an internet-accessible storage system;

(b) the content provider causing a message intended for the wireless communication device to be created, the message including: (i) an identifier of the content, and (ii) a system identifier that identifies the internet-accessible storage system storing the content; wherein the content is not included in the message;

(c) the content provider causing communication from the content notification system of a paging call including the message and intended for the wireless communication device over the mobile radiotelephone network;

(d) the content provider receiving a request message transmitted over the mobile radiotelephone network, the request message including (i) data corresponding to the identifier of the content and the system identifier received by the wireless communication device, and (ii) a command to perform on the content;

(e) the content provider, subsequent to receiving the request message, causing the content to be delivered to the wireless communication device via the mobile radiotelephone network;

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(f) wherein the system identifier comprises an address code; and

(g) further comprising the content provider receiving the address code from an
identification service.

Replace Claim 11 with the following:

11. [The method of claim 10] A method that communicates content from a content provider utilizing a content notification system, through a mobile radiotelephone network to a wireless communication device, the content notification system: (i) including an interface to a home location registry, (ii) configured to process data into a paging call suitable for transmission to the wireless communication device, and (iii) configured to transmit the paging call to the wireless communication device; the method comprising:

(a) the content provider causing content available for delivery to a wireless communication device to be stored at one of a plurality of independently identifiable internet-accessible storage locations;

(b) the content provider causing a message intended for the wireless communication device to be created, the message including: (i) an identifier of the content, and (ii) a system identifier that identifies the internet-accessible storage location at which the content is stored from among the plurality of independently identifiable internet-accessible storage locations; wherein the content is not included in the message;

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(c) the content provider causing communication from the content notification system of a paging call including the message and intended for the wireless communication device over the mobile radiotelephone network;

(d) the content provider receiving a request message transmitted over the mobile radiotelephone network, the request message including (i) data corresponding to the identifier of the content and the system identifier received by the wireless communication device, (ii) the address of the wireless communication device, and (iii) a command to perform on the content;

(e) the content provider, subsequent to receiving the request message, causing the content to be delivered to the wireless communication device via the mobile radiotelephone network;

(f) wherein the system identifier comprises an address code; and

(g) further comprising the content provider receiving the address code from an identification service.

Replace claim 46 with the following:

46. The method of claim 45 wherein the content provider, subsequent to receiving the request message, causes the updated content to be delivered to the wireless communication device via a mobile radiotelephone network.

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Replace claim 69 with the following:

69. The method of claim 68 wherein the content provider, subsequent to receiving the request message, causes the updated content to be delivered to the wireless communication device via a mobile radiotelephone network.

Information Disclosure Statement

4. With respect to the Information Disclosure Statement (PTO/SB/08A and 08B or its equivalent) considered with this action, the information cited has been considered as described in the MPEP. Note that MPEP 2256 and 2656 indicate that degree of consideration to be given to such information will be normally limited by the degree to which the party filing the information citation has explained the content and relevance of the information.

STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION

The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding:

Regarding claims 1 and 19:

As set forth in the Final Rejection, the examiner noted that hat Tso discloses that the content and resources on InfoCast server A 17 may be updated at any time based on updating data from external sources (i.e., the "content providers") and through the InfoFeed interface 57 component of InfoCast server A 17, (col. 6, line 46 - col. 7, line 15). In particular, "reporter" components within InfoFeed interface 57 are responsible for storing such information retrieved

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from these external sources, (col. 7, lines 9-15). Tso discloses that InfoCast server A 17 may transmit to the user detailed content requested by the user that corresponds to an InfoBite earlier sent to that user, (col. 24, line 55 - col. 25, line 13). Tso further discloses that such detailed content may have been updated by InfoCast server A 17 based on updates received from external sources (i.e., the "content providers" of the Tso patent), (col. 6, line 46 - col. 7, line 15).

In the process described by Tso, content providers send to InfoCast servers items of information. The information from the content providers are received by the InfoFeed interface 57 and for each information received, an InfoBite is created. This InfoBite is then sent to specific client devices based upon profile information.

As noted above, the content providers can update data on the server A 17 for specific subscriber locations and times. In the process described by Tso, each item received, including updated items, would cause the InfoCast server to create an InfoBite with that new information. In accordance with the claim language, the examiner acknowledges that the claim recites the content provider first causing a message to be created and to cause this message to be sent. The claim subsequently calls for the content (i.e. the content that was previously received) to be updated "prior to receiving the request for the content". The claim notes that after the request is received, the 'updated content' is sent to the device.

In the context of Tso, while content providers can update their information at anytime, it is not clear whether the client device would receive that specific updated information since the InfoBite that they received is specifically reference to specific information that was received. This is based on Tso's disclosure that every received item is referenced and given an resource

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identifier. Tso does not disclose that the content that is already stored and given a resource identifier would be updated.

Thus, the examiner now maintains that Tso does not specifically disclose of updating the content (that is, the original content that was originally received and from which an InfoBite was created) after the message has been sent but prior to receiving the request for the content and sending the updated content to the client device of the user.

In addition, as the examiner previously noted and as set forth in the rejection of the claims, the examiner maintained that it would have been obvious that information may be sent by the content providers from the time period between when the InfoBite was sent and when the Request was sent.

As set forth in the previous office action:

Tso renders obvious to one of ordinary skill in the art that an update of content at InfoCast server A 17 may occur during the interval between a user's client device receiving an InfoBite and the later event of the user requesting detailed content corresponding to that InfoBite from InfoCast server A 17.

The examiner also maintained:

“...it would have been obvious that since content can be updated by the content providers and since there may be a time difference between when a client device/user receives the InfoBite/notification and when said user makes a request for the full content that the actual content can change. This feature would allow the client/user to receive the most updated content based on the notification.

The examiner again agrees that content can be updated in the system of Tso. The updating of the databases is discussed in col. 6, line 46-col. 7, line 15. As noted therein, various content provides use InfoFeed interface 57 to updated the databases contained in the server. It is disclosed that the content providers can update data and resources for specific subscriber

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locations and times. This allows the content providers to feed information only to selected InfoCast server matching a specific criterion. Tso's example is based on the sending of news events of global nature to the InfoCast server in California, but limits the type of weather information that is sent to the California InfoCast server which is based on weather conditions that are local to the area. Thus, in the context of 'update', Tso discloses of getting new information, hence, updating the database with new information.

The examiner finds that while Tso can update the databases with new information at any time, Tso does not disclose that the content, that was already previously received, is updated itself. Thus, once an InfoBite is created and sent, there is no disclosure that the information content of the InfoBite can be updated after it's been created.

The examiner now maintains that Tso does not support updating the same content that was previously received.

Regarding claims 2 and 9:

The examiner first agrees that the changes incorporate the examiner suggestion of highlight that claim element (d) relates to element (b). The examiner also agrees with the patent owner that the amendment is merely clarifying and serves to moot the dispute issues with respect to claims 2 and 9.

In further detail, the examiner notes that col. 8, lines 1-10 of Tso emphasizes that "each resource identifier is a bit pattern generated by InfoFeed Interface 57 for each URL to be included in an InfoBite". Tso teaches that a resource identifier represents a fully qualified URL

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for a resource. Thus, a resource identifier is a system identifier since a resource identifier is representative of a fully qualified URL.

The examiner however, acknowledges that the device of Tso does not use the resource identifier to as a means to send a request signal. That is, claims 2 and 9 requires the reception of a notification that includes identifying the internet-accessible storage system storing the content. In addition, the claim further requires sending a request signal from the wireless device at the identified storage system which is the same storage system identified in the message that was created by the content provider

In Tso, as disclosed in e.g., col. 8, lines 48-24, after an InfoBite is received, the client devices makes a request signal to the InfoCast server. The examiner notes that Tso does not disclose that the request is made to a system identified in the received resource identifier.

It is clear that Tso does not send a request to the system identified in the resource identifier. Although the resource identifier includes a system identifier Tso's client device does not use this information but instead relies upon a separate configuration file to determine where to send the request.

Regarding claims 6 and 11:

As set forth in the Advisory Action, the patent owner contends Tso does not relate to an identification service. Rather, the above disclosure is a generic statement by Tso that various InfoCast server databases may be geographically distributed. There is no disclosure that the information used to populate those databases is received from an identification service. To the

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contrary, Tso teaches that the InfoCast system generates its own resource identifiers (see Tso, 8:2-4), and therefore does not receive them from an identification service.

The examiner notes that as set forth in the rejection, the set of server databases 50, 51, 53 and 55 do not need to be contained in server A17 and instead all of the databases can be contained outside of the InfoCast server. As set forth in the claims, the content provided must receive the address code from an identification service. As further noted in the claim, the InfoCast server inserts a resource identifier into the InfoBite message. In looking at the teachings of Tso, the InfoFeed Interface 57 generates the resource identifier for each URL. The examiner acknowledges that Tso does not disclose that the InfoFeed Interface can be located remotely from the InfoCast server.

Thus, the examiner maintains that while the databases may be remotely located and can send the resources to the content server or allow the client device to access the information directly via a URL; Tso does not disclose that the content provider or InfoCast Server receives the address code from a separate identification service.

Regarding claim 18:

As set forth in the Final Rejection, the examiner noted that the claim is directed to *inter alia* "wherein the content.identifier further indicates a time the content is available".

The examiner maintained that Tso discloses that an InfoBite message sent from the InfoCast server to the user's client device includes a "Time To Live" value that indicates how long the InfoBite will remain in the client system, (col. 8, lines 1-46).

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Upon further review, the examiner maintains that Tso discloses that the time to live indicates how long the InfoBite will remain in the client system. In response to the claim language, the claim is directed to specifying a time that the content is available.

The examiner concedes that the InfoBite of Tso does not indicate a time that the content is available. Instead, as Tso clearly indicates, the “Time-To-Live” value is a time value for the InfoBite in the client device. That is, how long the InfoBite will remain in the client device. Thus, the examiner now maintains that Tso fails to disclose wherein the content identifier further indicates a time the content is available.

Regarding claims 21 and 22:

As set forth in the Advisory action, the limitations set forth in these claims have already been indicated to be allowable by the examiner as set forth in claims 18-20. Thus, for the reasons set forth therein, the examiner agrees that these claims are allowed.

Regarding claims 24 and 47:

As set forth in the advisory action, the examiner notes that these claims are similar to confirmed claim 1 and thus the examiner agrees that for at least the reasons set forth with respect to claim 1 (as noted in the Final Rejection), new claims 24 and 47 read away from Tso.

Regarding claims 25 and 35:

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The examiner notes that these claims require *inter alia* a message to be created and where the message includes “a system identifier that establishes to the wireless communication device an address of a particular remote system to which to respond....”

As set forth in the Advisory action, the examiner notes that Tso discloses an embodiment in which the client “will first check to see if the resource to be requested from the InfoCast server is contained locally on the client through the use of the resource identifier and client resource database 71, (col. 10, lines 1-3). The examiner notes that while the client database is not equated to the claimed internet accessible location, the fact remains that based on information provided in the received InfoBite, the wireless communication device establishes to wireless device where to respond (i.e. either to respond to the InfoCast server or to its own storage).

The claim has been amended to recite that the identifier establishes to the wireless communication device “an address of a particular remote system” to which to respond. While the resource identifier causes the device to query its database, it does not provide an address of a remote system for the wireless device to respond.

Regarding claims 48 and 58:

As set forth in the Advisory Action, the examiner notes that these claims recite *inter alia* “the content provider causing a message intended for the wireless communication device to be created, the message including....a system identifier that establishes to the wireless communication device an address of a particular system to which to respond and identifies the internet-accessible storage system storing the content.....receiving a request message...at the system established by the system identifier...”

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The examiner notes that while the system identifier (i.e. resource identifier of Tso) is a system identifier, Tso does not disclose of receiving the request (i.e. a request from the wireless device) to the system identified in the received resource identifier.

Thus, the examiner agrees that the newly cited claims 48-69 read away from Tso.

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.

Conclusion

All correspondence relating to this *ex parte* reexamination proceeding should be directed:

By EFS: registered users may submit via the electronic filing system EFS-Web, at
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Any inquiry by the patent owner concerning this communication or earlier communications from the Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

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